

STATE OF MICHIGAN  
COURT OF APPEALS

UNPUBLISHED  
March 29, 2011

In the Matter of D. K. DONNER, Minor.

No. 299375  
Wayne Circuit Court  
Family Division  
LC No. 96-338345

Before: WILDER, P.J., and SAAD and DONOFRIO, JJ.

MEMORANDUM.

Respondent W. Donner appeals a circuit court order that terminated his parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). For the reasons set forth below, we affirm.

Respondent's claim that the trial court erred in exercising jurisdiction over the child is not properly before this Court. Where, as here, the trial court does not order termination at the initial dispositional hearing, the court's exercise of jurisdiction can only be challenged by direct appeal of the order of disposition, see MCR 3.993(A)(1). Respondent cannot collaterally attack the trial court's jurisdictional decision in this appeal from the order terminating his parental rights. *In re Hatcher*, 443 Mich 426, 444; 505 NW2d 834 (1993); *In re SLH*, 277 Mich App 662, 668-669; 747 NW2d 547 (2008); *In re Bechard*, 211 Mich App 155, 159; 535 NW2d 220 (1995); *In re Powers*, 208 Mich App 582, 587-588; 528 NW2d 799 (1995), superseded in part on other grounds *In re Jenks*, 281 Mich App 514, 517-518 n 2; 760 NW2d 514 (2008).

With respect to the statutory grounds for termination, the trial court did not clearly err when it ruled that clear and convincing evidence supported termination under §§ 19b(3)(g) and (j). *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000); MCR 3.977(H) and (K). Respondent failed to develop and maintain a father-son relationship through regular visitation and failed to participate in other services. Although he claimed that participation in services interfered with his work schedule, he failed to participate when changes were made to accommodate his work schedule. "[A] parent's failure to comply with the parent-agency agreement is evidence of a parent's failure to provide proper care and custody for the child." *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). Because the trial court did not clearly err in finding that termination was justified under §§ 19b(3)(g) and (j), any error in relying on § 19b(3)(c)(i) as an additional statutory basis for termination was harmless. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Moreover, the trial court did not err in its evaluation of the child's best interests. Although respondent correctly observes that a parent has a significant interest in the companionship, care, custody, and management of his child, and that "[t]his interest has been characterized as an element of 'liberty' to be protected by due process," *In re Brock*, 442 Mich 101, 109; 499 NW2d 752 (1993), once a petitioner presents clear and convincing evidence that establishes a statutory basis for termination under MCL 712A.19b(3), the parent's liberty interest in the custody and control of his child is eliminated. *In re Trejo*, 462 Mich at 355-356. Respondent expressed no love or affection for the child, failed to visit the child on a regular basis, offered no alternative care arrangements in light of his problematic schedule, and there was a tenuous parent-child bond. The trial court did not clearly err in holding that termination of respondent's parental rights was in the child's best interests. *Id.* at 356-357.

Affirmed.

/s/ Kurtis T. Wilder  
/s/ Henry William Saad  
/s/ Pat M. Donofrio